

**2009 DRAFTING REQUEST**

**Assembly Substitute Amendment (ASA-AB792)**

Received: 03/16/2010

Received By: **chanaman**

Wanted: **As time permits**

Companion to LRB: **s0345**

For: **Andy Jorgensen (608) 266-3790**

By/Representing: **Rassa**

May Contact:

Drafter: **chanaman**

Subject: **State Govt - procurement**

Addl. Drafters: **agary  
rchampag**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Jorgensen@legis.wisconsin.gov**

Carbon copy (CC:) to: **darin.renner@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Engross amendments into bill

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	chanaman 04/02/2010	bkraft 04/02/2010		_____			
/1			phenry 04/05/2010	_____	sbasford 04/05/2010	sbasford 04/05/2010	

FE Sent For:

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/?	chanaman	1/bjk <sup>4</sup> /2	$\frac{4}{4}$ bh	$\frac{4}{4}$ ah			

FE Sent For:

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State of Wisconsin  
2009 - 2010 LEGISLATURE

From  
50345/1

50393/1

LRB 50345/1

CMH/ARG/RAC:bjk/nwn/cjs:rs

Stays

Assembly

~~SENATE~~ SUBSTITUTE AMENDMENT,  
TO 2009 ~~SENATE~~ BILL ~~447~~

Assembly

792

SA

companion  
~~(no change)~~

Monday  
A.M.  
change P. 33

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1 AN ACT *to renumber and amend* 16.705 (1), 16.705 (2), 16.705 (6) and 16.87 (2);  
2 *to amend* 16.705 (7), 16.705 (8) (a), 16.75 (1) (b), 16.75 (2m) (b), 16.75 (6) (c),  
3 25.18 (1) (a), 25.18 (1) (f), 25.18 (1) (m), 84.01 (13), 84.01 (31), 84.06 (2) (a), 84.06  
4 (3), 84.06 (4), 85.015, 102.81 (2), 103.50 (2), 165.08, 165.25 (11), 221.0903 (4) (b),  
5 801.02 (1), 803.09 (1) and (2), 804.01 (2) (intro.), 805.04 (2m) and 893.981; and  
6 *to create* 16.42 (1) (h), 16.46 (10), 16.705 (1) (a) 3., (b) and (c), 16.705 (2) (a) 3.,  
7 (b) and (c), 16.705 (4), 16.705 (5g), (5m) and (5r), 16.705 (6) (a), 16.705 (8) (am),  
8 16.705 (9), 16.75 (1) (a) 4., 16.771, 16.871, 20.932, 66.0902, 84.01 (13m) and  
9 85.65 of the statutes; **relating to:** state contractual services and false claims  
10 submitted to state and local governments, requiring the exercise of  
11 rule-making authority, and providing penalties.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

12 SECTION 1. 16.42 (1) (h) of the statutes is created to read:

1           16.42 (1) (h) 1. The total amount of contracted positions, including the number  
2 of service hours and recurring service rate payments, providing services for the  
3 agency that are paid from the agency's base level funding and an identification of the  
4 appropriation or appropriations used to fund the contract expenditures. In  
5 preparing this information, agencies shall use actual salary and service hour data,  
6 if available. If such data are not available, the agency may use estimates. Any  
7 estimate relying on state employee salary data for comparable work shall be  
8 accompanied by a detailed statement explaining why the use of state employee  
9 salary data is necessary and why such use does not misrepresent the salaries paid  
10 for contracted positions.

11           2. The total amount of agency base level funding used to pay for the contracted  
12 positions under subd. 1.

13           3. The amount of funding requested for contracted positions identified under  
14 subd. 1 and an identification of the appropriation or appropriations that will be used  
15 to fund the contracted positions.

16           **SECTION 2.** 16.46 (10) of the statutes is created to read:

17           16.46 (10) (a) A statement of the number of contracted positions providing  
18 services for each state agency that are paid from the agency's base level funding and  
19 an identification of the appropriation or appropriations used to fund the contracted  
20 positions.

21           (b) A statement of the total amount of each state agency's base level funding  
22 used to pay for the contracted positions.

23           (c) A statement of the amount of funding requested by state agencies for  
24 contracted positions and an identification of the appropriation or appropriations that  
25 will be used to fund the contracted positions.

1           **SECTION 3.** 16.705 (1) of the statutes is renumbered 16.705 (1) (a) (intro.) and  
2 amended to read:

3           16.705 **(1)** (a) (intro.) The department or its agents may contract for services  
4 which if at least 2 of the following conditions apply:

5           1. The services can be performed more economically ~~or~~ by contract.

6           2. When considering expertise of the current full-time positions, whether filled  
7 or vacant, the services can be performed more efficiently by such contract than by use  
8 of employees in those positions.

9           (d) The department shall, by rule, prescribe uniform procedures for  
10 determining whether services are appropriate for contracting under this subsection.

11           **SECTION 4.** 16.705 (1) (a) 3., (b) and (c) of the statutes are created to read:

12           16.705 **(1)** (a) 3. When considering timeliness of delivery, the services can be  
13 performed more efficiently by contract.

14           (b) Notwithstanding par. (a), the department or its agents may contract for any  
15 services if the contract will be for a period that is not more than one year and if the  
16 contract is not eligible for renewal.

17           (c) No contract under this section may be automatically renewed.

18           **SECTION 5.** 16.705 (2) of the statutes is renumbered 16.705 (2) (a) (intro.) and  
19 amended to read:

20           16.705 **(2)** (a) (intro.) The department shall promulgate rules for the  
21 procurement of contractual services by the department and its designated agents,  
22 including but not limited to rules the following:

23           1. Rules prescribing approval and monitoring processes for contractual service  
24 contracts.

1           2. Except as provided in par. (b), a requirement for agencies to conduct a  
2           uniform cost–benefit analysis of each proposed contractual service procurement  
3           involving an estimated expenditure of more than ~~\$25,000~~ \$50,000 in accordance with  
4           standards prescribed in the rules, and, except as provided in par. (b), a requirement  
5           for agencies to review periodically, and before any renewal, the continued  
6           appropriateness of contracting under each contractual services agreement involving  
7           an estimated expenditure of more than ~~\$25,000~~ \$50,000. The rules shall require the  
8           cost–benefit analysis or continued appropriateness review to compare the costs of  
9           using a current employee who is providing, or who would provide, the service, or a  
10           similarly situated employee if the current position is vacant, to the costs of using an  
11           employee under a contract and shall require the comparison to include all relevant  
12           costs including the salary and fringe benefit costs, costs of any training that will be  
13           necessary to fulfill the task, materials, inspections, unemployment insurance,  
14           transitional costs, liability insurance, overhead, facility costs, taxes, and other  
15           incidental costs.

16           (d) Each officer requesting approval to engage any person to perform  
17           contractual services shall submit to the department written justification for such  
18           contracting which shall include a description of the contractual services to be  
19           procured, justification of need, justification for not contracting with other agencies,  
20           a specific description of the scope of contractual services to be performed, and  
21           justification for the procurement process if a process other than competitive bidding  
22           is to be used. The department may not approve any contract for contractual services  
23           unless it is satisfied that the justification for contracting conforms to the  
24           requirements of this section and ss. 16.71 to 16.77.

25           **SECTION 6.** 16.705 (2) (a) 3., (b) and (c) of the statutes are created to read:

1           16.705 (2) (a) 3. A requirement that each agency that contracts for services  
2 under this section perform periodic audits on cost–benefit analyses or continued  
3 appropriateness reviews and contracts that required a cost–benefit analysis or  
4 continued appropriateness review.

5           (b) 1. A cost–benefit analysis or continued appropriateness review is not  
6 required for the following services:

7           a. Services that federal or state law requires to be performed by contract.

8           b. Services that are incidental to the purchase of a commodity.

9           c. Services that are substantially dissimilar to services performed by state  
10 employees or that state employees have not performed historically and are not able  
11 to perform without significant retraining or investment in infrastructure or capital.

12           d. Services that must be provided per a contract, license, or warranty by the  
13 original equipment manufacturer or publisher unless the contract, license, or  
14 warranty has expired or is no longer valid.

15           2. If an agency is exempted from the cost–benefit analysis or continued  
16 appropriateness review under subd. 1. c. only, the department must include in the  
17 report submitted under sub. (8) the services that the agency determined were exempt  
18 under subd. 1. c.

19           (c) 1. Neither a cost–benefit analysis nor a continued appropriateness review  
20 may be conducted by contract.

21           2. A cost–benefit analysis may not be shown to a bidder prior to the issuance  
22 of a letter of intent to contract.

23           **SECTION 7.** 16.705 (4) of the statutes is created to read:

24           16.705 (4) Any person submitting a bid or proposal or a labor organization that  
25 is certified under subch. V or VI of ch. 111 to be the representative of the appropriate

1 collective bargaining unit that is aggrieved by a solicitation for bids or by a letter of  
2 intent to contract may protest to the agency that solicited or awarded the contractual  
3 services. The protesting party shall file a written notice of intent to protest with, or  
4 send an electronic notice of intent to protest to, the agency that solicited or awarded  
5 the contractual services within 7 working days after the solicitation or the letter,  
6 whichever is appropriate, and shall serve a written or send an electronic protest  
7 within 12 working days after issuance of the solicitation or the letter, whichever is  
8 appropriate.

9 **SECTION 8.** 16.705 (5g), (5m) and (5r) of the statutes are created to read:

10 16.705 **(5g)** All contracts for contractual services must provide notice of the  
11 rules promulgated by the division of legal services under sub. (5m) (a) and of the  
12 requirements under sub. (5r).

13 **(5m)** The division of legal services shall promulgate rules on all of the  
14 following:

15 (a) Actions by the person performing the contractual services that would result  
16 in the agency for which contractual services are performed recovering any  
17 expenditures for those contractual services that the agency paid to the person  
18 performing the contractual services.

19 (b) Standard performance measures, including quantifiable benchmark  
20 indicators, to evaluate persons performing contractual services.

21 (c) Signing bonuses, reimbursements, and per diem costs included in all  
22 contracts for contractual services.

23 **(5r)** (a) 1. If the cost of the contractual services exceeds \$25,000, any  
24 expenditures of the person performing the contractual services that exceed its  
25 original bid by 10 percent or more may not be paid unless the agency for which the



1 contractual services are performed notifies the governor and the joint committee on  
2 finance the amount by which the cost exceeds the original bid and the reason for the  
3 increase.

4 2. Subdivision 1. does not apply to contractual services purchased for the  
5 University of Wisconsin System, or for any University of Wisconsin System campus  
6 or institution, if the contractual services are for research or instructional purposes,  
7 as determined by the University of Wisconsin System or the campus or institution,  
8 whichever is appropriate.

9 (b) No person performing contractual services under this section may provide  
10 any salary increase if the salary increase would result in greater expenditures for the  
11 agency for which the contractual services are performed than the amounts specified  
12 in the original bid. This restriction under this paragraph on salary increases does  
13 not apply if the salary increase is in accordance with the terms of a collective  
14 bargaining agreement.

15 **SECTION 9.** 16.705 (6) of the statutes is renumbered 16.705 (6) (b) and amended  
16 to read:

17 16.705 (6) (b) If the agency for which contractual services are performed under  
18 a contractual services agreement concludes under par. (a) that the performance was  
19 unsatisfactory, recovers expenditures because the contractor's actions were listed in  
20 the rules developed under sub. (5m) (a), or concludes that the performance was  
21 unsatisfactory based on factors the agency considers, the agency shall file with the  
22 department an evaluation of stating that the contractor's performance was  
23 unsatisfactory within 60 days after the fulfillment of the agreement. The evaluation  
24 shall be in such form as the secretary may require.

25 **SECTION 10.** 16.705 (6) (a) of the statutes is created to read:

1           16.705 **(6)** (a) An agency for which contractual services are performed under  
2 a contractual services agreement shall evaluate the contractual services using the  
3 standard performance measures and benchmark indicators created under sub. (5m)  
4 (b). No contract may be renewed until the agency completes the evaluation.

5           **SECTION 11.** 16.705 (7) of the statutes is amended to read:

6           16.705 **(7)** The department shall review evaluations submitted under sub. (6)  
7 (b) and promulgate rules prescribing procedures to assure that future contracts for  
8 contractual services are not awarded to contractors whose past performance is found  
9 to be unsatisfactory, to the extent feasible.

10          **SECTION 12.** 16.705 (8) (a) of the statutes is amended to read:

11          16.705 **(8)** (a) A summary of the cost–benefit analyses completed by agencies  
12 in compliance with rules promulgated by the department under sub. (2) (a).

13          **SECTION 13.** 16.705 (8) (am) of the statutes is created to read:

14          16.705 **(8)** (am) As provided under sub. (2) (b) 2., any services on which agencies  
15 would have had to perform a cost–benefit analysis or a continued appropriateness  
16 review but for the exemption under sub. (2) (b) 1. c.

17          **SECTION 14.** 16.705 (9) of the statutes is created to read:

18          16.705 **(9)** (a) In this subsection, “federal economic stimulus funds” means  
19 federal moneys received by the state, pursuant to federal legislation enacted during  
20 the 111th Congress for the purpose of reviving the economy of the United States.

21          (b) Except as provided in pars. (c) and (d), if in any fiscal year an agency in the  
22 executive branch is prohibited from hiring employees to fill vacant positions or its  
23 employees are required to serve an unpaid leave of absence, the agency may not enter  
24 into, renew, or extend any contractual services contracts with private contractors or  
25 consultants for the remainder of that fiscal year for the performance of services of

1 agency employees who would have performed the services had they been hired or had  
2 they not have been required to take an unpaid leave of absence.

3 (c) Paragraph (b) shall not apply to contractual services contracts that are  
4 funded with federal economic stimulus funds and the secretary determines that any  
5 deadlines imposed by the federal government on the expenditure of the federal  
6 economic stimulus funds cannot be met without an agency's entering into, renewing,  
7 or extending a contractual services contract or a cost-benefit analysis is conducted  
8 that demonstrates that a contractual services contract would be more cost effective  
9 and efficient than having state employees perform the services.

10 (cm) Paragraph (b) shall not apply to contracts entered into, renewed, or  
11 extended under s. 977.08.

12 (d) An agency in the executive branch may submit a written request to the joint  
13 committee on finance to have par. (b) not apply to the agency with respect to a specific  
14 contractual services contract. If the cochairpersons of the committee do not notify  
15 the agency within 14 working days after the date of the agency's submittal that the  
16 committee intends to schedule a meeting to review the request, approval of the  
17 request is granted. If, within 14 working days after the date of the agency's request  
18 submittal, the cochairpersons of the committee notify the agency that the committee  
19 intends to schedule a meeting to review the request, the request may be granted only  
20 as approved by the committee.

21 **SECTION 15.** 16.75 (1) (a) 4. of the statutes is created to read:

22 16.75 (1) (a) 4. The contracting agency shall electronically send the successful  
23 bidder a letter of intent to contract and shall send electronic copies of the letter to all  
24 other bidders.

25 **SECTION 16.** 16.75 (1) (b) of the statutes is amended to read:

1           16.75 (1) (b) When the estimated cost exceeds \$25,000, the department shall  
2           invite bids to be submitted. The department ~~either~~ shall ~~either~~ solicit sealed bids to  
3           be opened publicly at a specified date and time, or shall solicit bidding by auction to  
4           be conducted electronically at a specified date and time. Whenever bids are invited,  
5           due notice inviting bids shall ~~may~~ be published as a class 2 notice, under ch. 985 ~~or~~,  
6           and notice inviting bids, including a copy of all documents soliciting bids, shall be  
7           posted on the Internet at a site determined or approved by the department. The bid  
8           opening or auction shall occur ~~at least 7 days after the date of the last insertion of~~  
9           ~~the notice or~~ at least 7 days after the date of posting on the Internet. The notice under  
10          ch. 985, if applicable, and the Internet site shall specify whether sealed bids are  
11          invited or bids will be accepted by auction, and shall give a clear description of the  
12          materials, supplies, equipment, or contractual services to be purchased, the amount  
13          of any bond, share draft, check, or other draft to be submitted as surety with the bid  
14          or prior to the auction, and the date and time that the public opening or the auction  
15          will be held.

16           **SECTION 17.** 16.75 (2m) (b) of the statutes is amended to read:

17           16.75 (2m) (b) When the estimated cost exceeds \$25,000, the department may  
18           invite competitive sealed proposals by publishing a class 2 notice under ch. 985 ~~or by~~  
19           ~~posting~~ and shall post notice, including all documents soliciting proposals, on the  
20           Internet at a site determined or approved by the department. The notice under ch.  
21           985, if applicable, and the notice on the Internet site shall describe the materials,  
22           supplies, equipment, or contractual services to be purchased, the intent to make the  
23           procurement by solicitation of proposals rather than by solicitation of bids, any  
24           requirement for surety, and the date the proposals will be opened, which shall be at

1 least 7 days after the date of the last insertion of the notice or at least 7 days after  
2 the date of posting on the Internet.

3 **SECTION 18.** 16.75 (6) (c) of the statutes is amended to read:

4 16.75 (6) (c) If the secretary determines that it is in the best interest of this state  
5 to do so, he or she may, with the approval of the governor, waive the requirements  
6 of subs. (1) to (5) and may purchase supplies, material, equipment, or contractual  
7 services, other than printing and stationery, from a private source other than a  
8 source specified in par. (b). Except as provided in sub. (2g) (c), if the cost of the  
9 purchase is expected to exceed \$25,000, the department ~~shall~~ may first publish a  
10 class 2 notice under ch. 985 ~~or~~ and shall post a notice on the Internet at the site  
11 determined or approved by the department under sub. (1) (b) describing the  
12 materials, supplies, equipment, or contractual services to be purchased, stating the  
13 intent to make the purchase from a private source without soliciting bids or  
14 competitive sealed proposals and stating the date on which the contract or purchase  
15 order will be awarded. The date of the award shall be at least 7 days after ~~the date~~  
16 ~~of the last insertion or~~ the date of posting on the Internet.

17 **SECTION 19.** 16.771 of the statutes is created to read:

18 **16.771 False claims. (1)** In this section, “contract” means any of the  
19 following:

20 (a) Contracts or orders that are subject to s. 16.705.

21 (b) Contracts or orders entered into for projects that are subject to s. 103.49 or  
22 103.50 if the party presenting the false claim is alleged to have failed to comply with  
23 s. 103.49 or 103.50.

24 **(2)** Whoever knowingly presents or causes to be presented a false claim for  
25 payment under a contract for materials, supplies, equipment, or services to be

1 provided to an agency shall forfeit not less than \$5,000 nor more than \$10,000, plus  
2 3 times the amount of the damages that were sustained by the state or would have  
3 been sustained by the state, whichever is greater, as a result of the false claim. The  
4 attorney general may bring an action on behalf of the state to recover any forfeiture  
5 incurred under this section.

6 **SECTION 20.** 16.87 (2) of the statutes is renumbered 16.87 (2) (a) and amended  
7 to read:

8 16.87 (2) (a) A contract for engineering services or architectural services ~~or a~~  
9 to be done for or furnished to the state or a department, board, commission, or officer  
10 of the state is exempt from the requirements of ss. 16.75 and 16.705, but an engineer  
11 or an architect employed at the department shall determine if the project could be  
12 completed more effectively and efficiently with state employees before a contract  
13 may be approved under sub. (3).

14 (b) A contract involving an expenditure of \$10,000 or more for construction  
15 work, or \$30,000 or more for limited trades work, to be done for or furnished to the  
16 state or a department, board, commission, or officer of the state is exempt from the  
17 requirements of ss. 16.705 and 16.75.

18 (c) The department shall attempt to ensure that 5% of the total amount  
19 expended under this section in each fiscal year is paid to minority businesses, as  
20 defined under s. 16.75 (3m) (a).

21 **SECTION 21.** 16.871 of the statutes is created to read:

22 **16.871 False claims. (1)** In this section:

23 (a) "Agency" has the meaning given in s. 16.70 (1e).

24 (b) "Construction work" has the meaning given in s. 16.87 (1) (a).

25 (bm) "Contract" has the meaning given in s. 16.771 (1).

1 (c) “Limited trades work” has the meaning given in s. 16.70 (7).

2 (2) Whoever knowingly presents or causes to be presented a false claim under  
3 any contract for construction work or limited trades work, or for engineering or  
4 architectural services, to be provided to any agency shall forfeit not less than \$5,000  
5 nor more than \$10,000, plus 3 times the amount of the damages that were sustained  
6 by the state or would have been sustained by the state, whichever is greater, as a  
7 result of the false claim. The attorney general may bring an action on behalf of the  
8 state to recover any forfeiture incurred under this subsection.

9 **SECTION 22.** 20.932 of the statutes is created to read:

10 **20.932 False claims; actions by or on behalf of state. (1)** In this section:

11 (a) “Authority” has the meaning given in s. 16.70 (2).

12 (b) “Claim” includes any request or demand for money, property, or services  
13 made to any officer, employee, or agent of this state, or to any contractor, grantee, or  
14 other recipient, whether or not under contract, if any portion of the money, property,  
15 or services that are requested or demanded is derived from state resources, or if the  
16 state is obligated to reimburse the contractor, grantee, or other recipient for any  
17 portion of the money, property, or services that are requested or demanded. “Claim”  
18 does not include any request or demand for medical assistance described under s.  
19 20.931 (1) (b).

20 (c) “Employer” includes all agencies and authorities.

21 (d) “Knowingly” has the meaning given in s. 20.931 (1) (d).

22 (e) “Proceeds” has the meaning given in s. 20.931 (1) (e).

23 (f) “State public official” has the meaning given in s. 19.42 (14).

24 (2) Except as provided in subs. (3) and (4), any person who does any of the  
25 following is liable to this state for 3 times the amount of the damages sustained by

1 this state because of the actions of the person, and shall forfeit not less than \$5,000  
2 nor more than \$10,000 for each violation:

3 (a) Knowingly presents or causes to be presented to any officer, employee, or  
4 agent of this state, or to any contractor, grantee, or other recipient of state resources,  
5 a false claim for payment or approval.

6 (b) Knowingly makes, uses, or causes to be made or used a false record or  
7 statement to obtain approval or payment of a false claim.

8 (c) Conspires to defraud this state by obtaining allowance or payment of a false  
9 claim, or by knowingly making or using, or causing to be made or used, a false record  
10 or statement to conceal, avoid, or decrease an obligation to pay or transmit money  
11 or property to this state.

12 (d) Has possession, custody, or control of property used or to be used by this  
13 state and knowingly delivers or causes to be delivered less property than the amount  
14 for which the person receives a certificate or receipt.

15 (e) Being authorized to make or deliver a document certifying receipt of  
16 property that is used or to be used by this state, knowingly makes or delivers a receipt  
17 that falsely represents the property that is used or to be used.

18 (f) Knowingly buys or receives as a pledge for payment of an obligation or debt  
19 for this state property from any person who lawfully may not sell or pledge the  
20 property.

21 (g) Knowingly makes, uses, or causes to be made or used a false record or  
22 statement to conceal, avoid, or decrease any obligation to pay or transmit money or  
23 property to this state.

24 (h) Is a beneficiary of the submission of a false claim to any officer, employee,  
25 or agent of this state, or to any contractor, grantee, or other recipient of state



1 resources, knows that the claim is false, and fails to disclose the false claim to this  
2 state within a reasonable time after the person becomes aware that the claim is false.

3 **(3)** Except as provided in sub. (4), the court may assess against a person who  
4 violates sub. (2) not less than 2 nor more than 3 times the amount of the damages  
5 sustained by the state because of the acts of the person, and may not assess any  
6 forfeiture, if the court finds all of the following:

7 (a) The person who commits the acts furnished the attorney general with all  
8 information known to the person about the acts within 30 days after the date on  
9 which the person obtained the information.

10 (b) The person fully cooperated with any investigation of the acts by this state.

11 (c) At the time that the person furnished the attorney general with information  
12 concerning the acts, no criminal prosecution or civil or administrative enforcement  
13 action had been commenced with respect to any such act, and the person did not have  
14 actual knowledge of the existence of any investigation into any such act.

15 **(4)** Subsections (2) and (3) do not apply to any claim, record, statement, or  
16 return made under chs. 70 to 79.

17 **(5)** (a) Except as provided in subs. (10) and (12), any person may bring a civil  
18 action as a qui tam plaintiff against a person who commits an act in violation of sub.  
19 (2) for the person and the state in the name of the state.

20 (b) The plaintiff shall serve upon the attorney general a copy of the complaint  
21 and documents disclosing substantially all material evidence and information that  
22 the person possesses. The plaintiff shall file a copy of the complaint with the court  
23 for inspection in camera. Except as provided in par. (c), the complaint shall remain  
24 under seal for a period of 60 days from the date of filing, and shall not be served upon  
25 the defendant until the court so orders. Within 60 days from the date of service upon

1 the attorney general of the complaint, evidence, and information under this  
2 paragraph, the attorney general may intervene in the action.

3 (c) The attorney general may, for good cause shown, move the court for one or  
4 more extensions of the period during which a complaint in an action under this  
5 subsection remains under seal.

6 (d) Before the expiration of the period during which the complaint remains  
7 under seal, the attorney general shall do one of the following:

8 1. Proceed with the action or an alternate remedy under sub. (10), in which case  
9 the state shall prosecute the action or proceeding under sub. (10).

10 2. Notify the court that he or she declines to proceed with the action, in which  
11 case the action may not proceed.

12 (e) If a person brings a valid action under this subsection, no person other than  
13 the state may intervene or bring a related action while the original action is pending  
14 based upon the same facts underlying the pending action.

15 (f) In any action or other proceeding under sub. (10) brought under this  
16 subsection, all essential elements of the cause of action or complaint, including  
17 damages, must be proven by a preponderance of the evidence.

18 **(6)** If the state proceeds with an action under sub. (5) or an alternate remedy  
19 under sub. (10), the state has primary responsibility for prosecuting the action or  
20 proceeding under sub. (10). The state is not bound by any act of the person bringing  
21 the action, but that person has the right to continue as a party to the action, subject  
22 to the limitations under sub. (7).

23 **(7)** (a) The state may move to dismiss an action under sub. (5) or an  
24 administrative proceeding under sub. (10) to which the state is a party for good cause  
25 shown, notwithstanding objection of the person bringing the action, if that person is

1 served with a copy of the state's motion and is provided with an opportunity to oppose  
2 the motion before the court or the administrative agency before which the proceeding  
3 is conducted.

4 (b) With the approval of the governor, the attorney general may compromise  
5 and settle an action under sub. (5) or an administrative proceeding under sub. (10)  
6 to which the state is a party, notwithstanding objection of the person bringing the  
7 action, if the court determines, after affording to the person bringing the action the  
8 right to a hearing at which the person is afforded the opportunity to present evidence  
9 in opposition to the proposed settlement, that the proposed settlement is fair,  
10 adequate, and reasonable considering the relevant circumstances pertaining to the  
11 violation.

12 (c) Upon a showing by the state that unrestricted participation in the  
13 prosecution of an action under sub. (5) or an alternate proceeding to which the state  
14 is a party by the person bringing the action would interfere with or unduly delay the  
15 prosecution of the action or proceeding, or would result in consideration of  
16 repetitious or irrelevant evidence or evidence presented for purposes of harassment,  
17 the court may limit the person's participation in the prosecution in any of the  
18 following ways:

- 19 1. Limiting the number of witnesses that the person may call.
- 20 2. Limiting the length of the testimony of the witnesses.
- 21 3. Limiting the cross-examination of witnesses by the person.
- 22 4. Otherwise limiting the participation by the person in the prosecution of the  
23 action or proceeding.

24 (d) Upon showing by a defendant that unrestricted participation in the  
25 prosecution of an action under sub. (5) or alternate proceeding under sub. (10) to

1 which the state is a party by the person bringing the action would result in  
2 harassment or would cause the defendant undue burden or unnecessary expense, the  
3 court may limit the person's participation in the prosecution.

4 **(9)** Upon showing in camera by the attorney general that discovery by the  
5 person bringing the action would interfere with the state's ongoing investigation or  
6 prosecution of a criminal or civil matter arising out of the same facts as the facts upon  
7 which the action is based, the court may stay the discovery in whole or in part for not  
8 more than 60 days. The court may extend the stay upon further showing in camera  
9 by the attorney general that the state has pursued the criminal or civil investigation  
10 of the matter with reasonable diligence and the proposed discovery in the action  
11 brought under sub. (5) will interfere with the ongoing criminal or civil investigation  
12 or prosecution.

13 **(10)** The attorney general may pursue a claim relating to an alleged violation  
14 of sub. (2) through an alternate remedy available to the state or any state agency,  
15 including an administrative proceeding to assess a civil forfeiture. If the attorney  
16 general elects an alternate remedy, the attorney general shall serve timely notice of  
17 his or her election upon the person bringing the action under sub. (5), and that person  
18 has the same rights in the alternate venue as the person would have had if the action  
19 had continued under sub. (5). Any finding of fact or conclusion of law made by a court  
20 or by a state agency in the alternate venue that has become final is conclusive upon  
21 all parties named in an action under sub. (5). For purposes of this subsection, a  
22 finding or conclusion is final if it has been finally determined on appeal, if all time  
23 for filing an appeal or petition for review with respect to the finding or conclusion has  
24 expired, or if the finding or conclusion is not subject to judicial review.

1           **(11)** (a) Except as provided in pars. (b) and (d), if the state proceeds with an  
2 action brought by a person under sub. (5) or the state pursues an alternate remedy  
3 relating to the same acts under sub. (10), the person who brings the action shall  
4 receive at least 15 percent but not more than 25 percent of the proceeds of the action  
5 or settlement of the claim, depending upon the extent to which the person  
6 contributed to the prosecution of the action or claim.

7           (b) Except as provided in par. (d), if an action or claim is one in which the court  
8 or other adjudicator finds to be based primarily upon disclosures of specific  
9 information not provided by the person who brings an action under sub. (5) relating  
10 to allegations or transactions specifically in a criminal, civil, or administrative  
11 hearing, or in a legislative or administrative report, hearing, audit, or investigation,  
12 or report made by the news media, the court or other adjudicator may award an  
13 amount that it considers appropriate but that is not more than 10 percent of the  
14 proceeds of the action or settlement of the claim, depending upon the significance of  
15 the information and the role of the person bringing the action in advancing the  
16 prosecution of the action or claim.

17           (c) Except as provided in par. (d), in addition to any amount received under par.  
18 (a) or (b), a person bringing an action under sub. (5) shall be awarded his or her  
19 reasonable expenses necessarily incurred in bringing the action together with the  
20 person's costs and reasonable actual attorney fees. The court or other adjudicator  
21 shall assess any award under this paragraph against the defendant.

22           (d) Whether the state proceeds with the action or an alternate proceeding under  
23 sub. (10), if the court or other adjudicator finds that the person who brought an action  
24 under sub. (5) also planned or initiated the violation upon which the action or  
25 proceeding is based, then the court may, to the extent that the court considers

1 appropriate, reduce the share of the proceeds of the action that the person would  
2 otherwise receive under par. (a) or (b), taking into account the role of that person in  
3 advancing the prosecution of the action or claim and any other relevant circumstance  
4 pertaining to the violation, except that if the person bringing the action is convicted  
5 of criminal conduct arising from his or her role in a violation of sub. (2), the court or  
6 other adjudicator shall dismiss the person as a party and the person shall not receive  
7 any share of the proceeds of the action or claim or any expenses, costs, or fees under  
8 par. (c).

9 **(12)** (a) No court has jurisdiction over an action brought by a private person  
10 under sub. (5) against a state public official if the action is based upon information  
11 known to the attorney general at the time that the action is brought.

12 (am) No court has jurisdiction over an action brought by a private person under  
13 sub. (5) if the action is based on public disclosure of allegations or transactions in a  
14 criminal action; in a legislative, administrative, or other governmental report,  
15 hearing, audit, or investigation; or from news media, unless the private person has  
16 direct and independent knowledge of the information on which the allegations or  
17 transactions are based and has voluntarily provided the knowledge to the attorney  
18 general under sub. (5) (b).

19 (b) No person may bring an action under sub. (5) that is based upon allegations  
20 or transactions that are the subject of a civil action or an administrative proceeding  
21 to assess a civil forfeiture in which the state is a party if that action or proceeding  
22 was commenced prior to the date that the action is filed.

23 **(13)** The state is not liable for any expenses incurred by a private person in  
24 bringing an action under sub. (5).

1           **(14)** Any employee who is discharged, demoted, suspended, threatened,  
2 harassed, or in any other manner discriminated against by his or her employer  
3 because of lawful actions taken by the employee, on behalf of the employee, or by  
4 others in furtherance of an action or claim filed under this section, including  
5 investigation for, initiation of, testimony for, or assistance in an action or claim filed  
6 or to be filed under sub. (5) is entitled to all necessary relief to make the employee  
7 whole. The relief shall in each case include reinstatement with the same seniority  
8 status that the employee would have had but for the discrimination, 2 times the  
9 amount of back pay, interest on the back pay at the legal rate, and compensation for  
10 any special damages sustained as a result of the discrimination, including costs and  
11 reasonable actual attorney fees. An employee may bring an action to obtain the relief  
12 to which the employee is entitled under this subsection.

13           **(15)** A civil action may be brought based upon acts occurring prior to the  
14 effective date of this subsection .... [LRB inserts date], if the action is brought within  
15 the period specified in s. 893.981.

16           **(16)** A judgment of guilty entered against a defendant in a criminal action in  
17 which the defendant is charged with fraud or making false statements estops the  
18 defendant from denying the essential elements of the offense in any action under sub.  
19 (5) that involves the same elements as in the criminal action.

20           **(17)** The remedies provided for under this section are in addition to any other  
21 remedies provided for under any other law or available under the common law.

22           **(18)** This section shall be liberally construed and applied to promote the public  
23 interest and to effect the congressional intent in enacting 31 USC 3729 to 3733, as  
24 reflected in the act and the legislative history of the act.

25           **SECTION 23.** 25.18 (1) (a) of the statutes is amended to read:

1           25.18 (1) (a) Notwithstanding s. 20.930 and all provisions of subch. IV of ch.  
2 16, except s. 16.753, employ special legal or investment counsel in any matters  
3 arising out of the scope of its investment authority. ~~Section Sections~~ 16.753 ~~does,~~  
4 16.771, 16.871 and 20.932 do not apply to the employment of legal or investment  
5 counsel for the purpose of assisting the board with investments or arising out of the  
6 scope of the board's investment authority. The employment of special legal counsel  
7 shall be with the advice and consent of the attorney general whenever such special  
8 counsel is to be compensated by the board. Any expense of counsel so employed shall  
9 be borne by the fund for which the services shall be furnished.

10           **SECTION 24.** 25.18 (1) (f) of the statutes is amended to read:

11           25.18 (1) (f) Maintain and repair any building or other structure or premises  
12 which it owns in fee or in which it owns the beneficial interest and, notwithstanding  
13 all provisions of subch. IV or V of ch. 16, except s. 16.753, it shall have exclusive  
14 authority to make such agreements and enter into such contracts as it deems  
15 necessary for such purpose. ~~Section Sections~~ 16.753 ~~does,~~ 16.771, 16.871, and 20.932  
16 do not apply to agreements and contracts entered into by the board for the purpose  
17 of assisting the board with investments or arising out of the scope of the board's  
18 investment authority. All noncapital costs under this paragraph shall be charged to  
19 the current income accounts of the funds having an interest in the building, structure  
20 or premises.

21           **SECTION 25.** 25.18 (1) (m) of the statutes is amended to read:

22           25.18 (1) (m) Notwithstanding all provisions of subchs. IV and V of ch. 16,  
23 except s. 16.753, employ professionals, contractors or other agents necessary to  
24 evaluate or operate any property if a fund managed by the board has an interest in,  
25 or is considering purchasing or lending money based upon the value of, that property.



1 ~~Section~~ Sections 16.753 does, 16.771, 16.871, and 20.932 do not apply to the  
2 employment of any person for the purpose of assisting the board with investments  
3 or arising out of the scope of the board's investment authority. Costs under this  
4 paragraph shall be paid by the fund and charged to the appropriate account under  
5 s. 40.04 (3).

6 **SECTION 26.** 66.0902 of the statutes is created to read:

7 **66.0902 False claims. (1) DEFINITIONS.** In this section:

8 (a) "Local governmental unit" has the meaning given in s. 66.0131 (1) (a).

9 (b) "Public contract" means a contract that is subject to s. 66.0903 and that is  
10 for the construction, execution, repair, remodeling, or improvement of a public work  
11 or building or for the furnishing of supplies, equipment, material, or professional or  
12 contractual services of any kind.

13 **(2) PRESENTATION OF FALSE CLAIMS.** Whoever knowingly presents or causes to  
14 be presented a false claim for payment under any public contract with a local  
15 governmental unit shall forfeit not less than \$5,000 nor more than \$10,000, plus 3  
16 times the amount of the damages that were sustained by the local governmental unit  
17 or would have been sustained by the local governmental unit, whichever is greater,  
18 as a result of the false claim.

19 **SECTION 27.** 84.01 (13) of the statutes is amended to read:

20 **84.01 (13) ENGINEERING SERVICES.** The department may engage such  
21 engineering, consulting, surveying, or other specialized services as it deems  
22 advisable. Any engagement of services under this subsection is exempt from ss.  
23 ~~16.70 to 16.75~~ 16.7015, 16.705 (4), 16.71 to 16.751, 16.755 to 16.82, and 16.85 to  
24 16.89, but ss. 16.42, 16.46, 16.528, 16.705 except s. 16.705 (4), 16.752, 16.753, and  
25 16.754 apply to such engagement. Section 20.932 does not apply to any engagement

1 of services under this subsection. Any engagement involving an expenditure of  
2 \$3,000 or more shall be by formal contract approved by the governor. The  
3 department shall conduct a uniform cost–benefit analysis, as defined in s. 16.70 (3g),  
4 of each proposed engagement under this subsection that involves an estimated  
5 expenditure of more than ~~\$25,000~~ \$50,000 in accordance with standards prescribed  
6 by rule of the department. The department shall review periodically, and before any  
7 renewal, the continued appropriateness of contracting pursuant to each engagement  
8 under this subsection that involves an estimated expenditure of more than \$25,000  
9 \$50,000. Notwithstanding any provision of s. 16.705 or rule promulgated under s.  
10 16.705, the department of transportation is not required to submit any proposed  
11 contractual engagement of services to, or obtain approval of any such engagement  
12 of services from, the department of administration before engaging any services  
13 under this subsection and the department of administration has no oversight  
14 authority over any such engagement of services under this subsection.  
15 Notwithstanding s. 16.705 (2), the department of transportation, rather than the  
16 department of administration, shall, before engaging any services under this  
17 subsection, satisfy itself that the justification for engaging such services conforms to  
18 the requirements of ss. 16.705, 16.752, 16.753, and 16.754, and the written  
19 justification required under s. 16.705 (2) shall be submitted to the department of  
20 transportation rather than the department of administration.

21 **SECTION 28.** 84.01 (13m) of the statutes is created to read:

22 **84.01 (13m) CONTRACTUAL ENGAGEMENTS OF SERVICES REPORTING.** On or before  
23 October 15 of each year, the department shall submit to the governor, the joint  
24 committee on finance, the joint legislative audit committee, and the chief clerk of  
25 each house of the legislature for distribution to the appropriate standing committees

1 under s. 13.172 (3) a report concerning the number, value, and nature of contractual  
2 engagements of services authorized under sub. (13) during the preceding fiscal year.  
3 To the extent possible, the report required under this subsection may be combined  
4 with the report required under s. 16.705 (8). The report shall also include, with  
5 respect to contractual engagements of services for the preceding fiscal year, all of the  
6 following:

7 (a) A summary of the cost–benefit analyses completed in compliance with rules  
8 promulgated by the department.

9 (b) Recommendations for elimination of unneeded contractual engagements of  
10 services and for consolidation or resolicitation of existing contractual engagements  
11 of services.

12 **SECTION 29.** 84.01 (31) of the statutes is amended to read:

13 **84.01 (31) ACCOMMODATION OF UTILITY FACILITIES WITHIN HIGHWAY RIGHTS–OF–WAY.**  
14 Notwithstanding ss. 84.06 (4), 84.063, 84.065, and 84.093, the department may, upon  
15 finding that it is feasible and advantageous to the state, negotiate and enter into an  
16 agreement to accept any plant or equipment used for the conveyance, by wire, optics,  
17 radio signal, or other means, of voice, data, or other information at any frequency  
18 over any part of the electromagnetic spectrum, or to accept any services associated  
19 with the collection, storage, forwarding, switching, and delivery incidental to such  
20 communication, as payment for the accommodation of a utility facility, as defined in  
21 s. 84.063 (1) (b), within a highway right–of–way. Any agreement under this  
22 subsection is exempt from ss. 16.70 to 16.75, 16.755 to 16.82, and 16.85 to 16.89, but  
23 ss. 16.528, 16.752, and 16.754 apply to such agreement. Section 20.932 does not  
24 apply to any agreement under this subsection.

25 **SECTION 30.** 84.06 (2) (a) of the statutes is amended to read:

1           84.06 (2) (a) All such highway improvements shall be executed by contract  
2 based on bids unless the department finds that another method as provided in sub.  
3 (3) or (4) would be more feasible and advantageous. Bids shall be advertised for in  
4 the manner determined by the department. Except as provided in s. 84.075, the  
5 contract shall be awarded to the lowest competent and responsible bidder as  
6 determined by the department. If the bid of the lowest competent bidder is  
7 determined by the department to be in excess of the estimated reasonable value of  
8 the work or not in the public interest, all bids may be rejected. The department shall,  
9 so far as reasonable, follow uniform methods of advertising for bids and may  
10 prescribe and require uniform forms of bids and contracts. Except as provided in par.  
11 (b), the secretary shall enter into the contract on behalf of the state. Every such  
12 contract is exempted from ss. 16.70 to 16.75, 16.755 to 16.82, 16.87 and 16.89, but  
13 ss. 16.528, 16.752, 16.753, and 16.754 apply to the contract. Section 20.932 does not  
14 apply to the contract. Any such contract involving an expenditure of \$1,000 or more  
15 shall not be valid until approved by the governor. The secretary may require the  
16 attorney general to examine any contract and any bond submitted in connection with  
17 the contract and report on its sufficiency of form and execution. The bond required  
18 by s. 779.14 (1m) is exempt from approval by the governor and shall be subject to  
19 approval by the secretary. This subsection also applies to contracts with private  
20 contractors based on bids for maintenance under s. 84.07.

21           **SECTION 31.** 84.06 (3) of the statutes is amended to read:

22           84.06 (3) CONTRACTS WITH COUNTY OR MUNICIPALITY; DIRECT LABOR; MATERIALS. If  
23 the department finds that it would be more feasible and advantageous to have the  
24 improvement performed by the county in which the proposed improvement is located  
25 and without bids, the department may, by arrangement with the county highway

1 committee of the county, enter into a contract satisfactory to the department to have  
2 the work done by the county forces and equipment. In such contract the department  
3 may authorize the county to purchase, deliver, and store materials and may fix the  
4 rental rates of small tools and equipment. The contract shall be between the county  
5 and the state and shall not be based on bids, and may be entered into on behalf of the  
6 county by the county highway committee and on behalf of the state by the secretary.  
7 Section 20.932 does not apply to the contract. Such contract is exempted from s.  
8 779.14 and from all provisions of chs. 16 and 230, except ss. 16.753 and 16.754. If  
9 the total estimated indebtedness to be incurred exceeds \$5,000 the contract shall not  
10 be valid until approved by the governor. The provisions of this subsection relating  
11 to agreements between a county and the state shall also authorize and apply to such  
12 arrangements between a city, town, or a village and the state. In such cases, the  
13 governing body of the city, town, or village shall enter into the agreement on behalf  
14 of the municipality.

15 **SECTION 32.** 84.06 (4) of the statutes is amended to read:

16 84.06 (4) SPECIAL CONTRACTS WITH RAILROADS AND UTILITIES. If an improvement  
17 undertaken by the department will cross or affect the property or facilities of a  
18 railroad or public utility company, the department may, upon finding that it is  
19 feasible and advantageous to the state, arrange to perform portions of the  
20 improvement work affecting such facilities or property or perform work of altering,  
21 rearranging, or relocating such facilities by contract with the railroad or public  
22 utility. Such contract shall be between the railroad company or public utility and the  
23 state and need not be based on bids. The contract may be entered into on behalf of  
24 the state by the secretary. Section 20.932 does not apply to the contract. Every such  
25 contract is exempted from s. 779.14 and from all provisions of chs. 16 and 230, except

1 ss. 16.528, 16.752, 16.753, and 16.754. No such contract in which the total estimated  
2 debt to be incurred exceeds \$5,000 shall be valid until approved by the governor. As  
3 used in this subsection, “public utility” means the same as in s. 196.01 (5), and  
4 includes a telecommunications carrier as defined in s. 196.01 (8m), and “railroad”  
5 means the same as in s. 195.02. “Property” as used in this subsection includes but  
6 is not limited to tracks, trestles, signals, grade crossings, rights-of-way, stations,  
7 pole lines, plants, substations, and other facilities. Nothing in this subsection shall  
8 be construed to relieve any railroad or public utility from any financial obligation,  
9 expense, duty, or responsibility otherwise provided by law relative to such property.

10 **SECTION 33.** 85.015 of the statutes is amended to read:

11 **85.015 Transportation assistance contracts.** All contracts entered into  
12 under this chapter to provide financial assistance in the areas of railroads, urban  
13 mass transit, specialized transportation, and harbors are subject to ss. 16.528,  
14 16.752, and 16.753 but are exempt from ss. 16.70 to 16.75, 16.755 to 16.82, 16.85 to  
15 16.87, and 16.875 to 16.89. Section 20.932 does not apply to contracts specified in  
16 this section.

17 **SECTION 34.** 85.65 of the statutes is created to read:

18 **85.65 Workload outsourcing rules.** The department shall promulgate rules  
19 establishing a methodology to determine the percentage of work for which the  
20 department has responsibility that the department may outsource to persons not  
21 employed by the department. The rules shall set forth a process by which the  
22 department could attain staffing levels sufficiently proficient to ensure that not more  
23 than 50 percent of work for which the department has responsibility is outsourced  
24 to persons not employed by the department.

25 **SECTION 35.** 102.81 (2) of the statutes is amended to read:

1           102.81 (2) The department may retain an insurance carrier or insurance  
2 service organization to process, investigate and pay claims under this section and  
3 may obtain excess or stop-loss reinsurance with an insurance carrier authorized to  
4 do business in this state in an amount that the secretary determines is necessary for  
5 the sound operation of the uninsured employers fund. In cases involving disputed  
6 claims, the department may retain an attorney to represent the interests of the  
7 uninsured employers fund and to make appearances on behalf of the uninsured  
8 employers fund in proceedings under ss. 102.16 to 102.29. Section 20.930 and all  
9 provisions of subch. IV of ch. 16, except ~~ss. 16.753 and 16.771~~, do not apply to an  
10 attorney hired under this subsection. The charges for the services retained under  
11 this subsection shall be paid from the appropriation under s. 20.445 (1) (rp). The cost  
12 of any reinsurance obtained under this subsection shall be paid from the  
13 appropriation under s. 20.445 (1) (sm).

14           **SECTION 36.** 103.50 (2) of the statutes is amended to read:

15           103.50 (2) PREVAILING WAGE RATES AND HOURS OF LABOR. No person performing  
16 the work described in sub. (2m) in the employ of a contractor, subcontractor, agent  
17 or other person performing any work on a project under a contract ~~based on bids~~ as  
18 provided in s. 84.06 (2) or (3) to which the state is a party for the construction or  
19 improvement of any highway may be permitted to work a greater number of hours  
20 per day or per week than the prevailing hours of labor; nor may he or she be paid a  
21 lesser rate of wages than the prevailing wage rate in the area in which the work is  
22 to be done determined under sub. (3); except that any such person may be permitted  
23 or required to work more than such prevailing hours of labor per day and per week  
24 if he or she is paid for all hours worked in excess of the prevailing hours of labor at  
25 a rate of at least 1.5 times his or her hourly basic rate of pay.

1           **SECTION 37.** 165.08 of the statutes is amended to read:

2           **165.08 Power to compromise.** Any civil action prosecuted by the  
3 department by direction of any officer, department, board or commission, shall be  
4 compromised or discontinued when so directed by such officer, department, board or  
5 commission. Except as provided in ~~s. ss. 20.931 (7) (b) and 20.932 (7) (b)~~, any civil  
6 action prosecuted by the department on the initiative of the attorney general, or at  
7 the request of any individual may be compromised or discontinued with the approval  
8 of the governor. In any criminal action prosecuted by the attorney general, the  
9 department shall have the same powers with reference to such action as are vested  
10 in district attorneys.

11           **SECTION 38.** 165.25 (11) of the statutes is amended to read:

12           165.25 **(11)** FALSE CLAIMS. Diligently investigate possible violations of s. 20.931  
13 or 20.932, and, if the department determines that a person has committed an act that  
14 is punishable under s. 20.931 or 20.932, whichever is being investigated, may bring  
15 a civil action against that person.

16           **SECTION 39.** 221.0903 (4) (b) of the statutes is amended to read:

17           221.0903 **(4)** (b) *Contracts for examination services.* The division may enter  
18 into contracts with any bank supervisory agency with concurrent jurisdiction over  
19 a state bank or an in-state branch of an out-of-state state bank to engage the  
20 services of the agency's examiners at a reasonable rate of compensation, or to provide  
21 the services of the division's examiners to the agency at a reasonable rate of  
22 compensation. Contracts entered into under this paragraph are exempt from ss.  
23 16.70 to 16.752, 16.754 to 16.76, and 16.767 to 16.77, and 16.78 to 16.82.

24           **SECTION 40.** 801.02 (1) of the statutes is amended to read:



1           801.02 (1) Except as provided in ~~s. ss. 20.931 (5) (b) and 20.932 (5) (b)~~, a civil  
2 action in which a personal judgment is sought is commenced as to any defendant  
3 when a summons and a complaint naming the person as defendant are filed with the  
4 court, provided service of an authenticated copy of the summons and of the complaint  
5 is made upon the defendant under this chapter within 90 days after filing.

6           **SECTION 41.** 803.09 (1) and (2) of the statutes are amended to read:

7           803.09 (1) Except as provided in ~~s. ss. 20.931 and 20.932~~, upon timely motion  
8 anyone shall be permitted to intervene in an action when the movant claims an  
9 interest relating to the property or transaction which is the subject of the action and  
10 the movant is so situated that the disposition of the action may as a practical matter  
11 impair or impede the movant's ability to protect that interest, unless the movant's  
12 interest is adequately represented by existing parties.

13           (2) Except as provided in ~~s. ss. 20.931 and 20.932~~, upon timely motion anyone  
14 may be permitted to intervene in an action when a movant's claim or defense and the  
15 main action have a question of law or fact in common. When a party to an action  
16 relies for ground of claim or defense upon any statute or executive order or rule  
17 administered by a federal or state governmental officer or agency or upon any  
18 regulation, order, rule, requirement or agreement issued or made pursuant to the  
19 statute or executive order, the officer or agency upon timely motion may be permitted  
20 to intervene in the action. In exercising its discretion the court shall consider  
21 whether the intervention will unduly delay or prejudice the adjudication of the rights  
22 of the original parties.

23           **SECTION 42.** 804.01 (2) (intro.) of the statutes is amended to read:

1           804.01 (2) SCOPE OF DISCOVERY. (intro.) Except as provided in s. ss. 20.931 (9)  
2           and 20.932 (9), and unless otherwise limited by order of the court in accordance with  
3           the provisions of this chapter, the scope of discovery is as follows:

4           **SECTION 43.** 805.04 (2m) of the statutes is amended to read:

5           805.04 (2m) FALSE CLAIMS. An action filed under s. 20.931 or 20.932 may be  
6           dismissed only by order of the court. In determining whether to dismiss the action  
7           filed under s. 20.931 or 20.932, the court shall take into account the best interests  
8           of the parties and the purposes of s. 20.931 or 20.932, whichever is appropriate.

9           **SECTION 44.** 893.981 of the statutes is amended to read:

10          **893.981 False claims.** An action or claim under s. 20.931 or 20.932 shall be  
11          commenced within 10 years after the cause of the action or claim accrues or be  
12          barred.

13          **SECTION 45. Nonstatutory provisions.**

14          (1) REPORT ON LOCAL ROAD PROJECTS. No later than the first day of the 7th month  
15          beginning after the effective date of this subsection, the department of  
16          transportation shall submit a report to the joint committee on finance that contains  
17          all of the following:

18               (a) Recommendations on actions that the department and local governments  
19               can take to improve the efficiency, cost-effectiveness, and timeliness of local road  
20               construction projects.

21               (b) Any proposed legislative changes that the legislature can consider that may  
22               help to implement the recommendations under paragraph (a).

23          (2) REPORT ON WORKLOAD OUTSOURCING. No later than February 1, 2011, the  
24          department of transportation shall submit to the legislature under section 13.172 (2)  
25          of the statutes a report on the work for which the department of transportation has

1 responsibility and that the department of transportation has, during the previous  
 2 ~~three~~ fiscal years, outsourced to persons not employed by the department of  
 3 transportation. The report shall include any outsourced projects for which the  
 4 department of transportation has encumbered, expended, or otherwise committed  
 5 any funding. In this report, the department of transportation shall also denote work  
 6 that was committed from funding provided under the American Recovery and  
 7 Reinvestment Act of 2009.

8 (3) RULEMAKING ON WORKLOAD OUTSOURCING. The department of transportation  
 9 shall begin promulgating the rules required under section 85.65 of the statutes, as  
 10 created by this act, no later than February 1, 2011, and shall submit in proposed form  
 11 the rules required under section 85.65 of the statutes, as created by this act, to the  
 12 legislative council staff under section 227.15 (1) of the statutes no later than  
 13 February 1, 2012.

14 **SECTION 46. Initial applicability.**

15 (1) The treatment of sections 16.705 (5g), (5m), and (5r) and 16.75 (1) (b), (2m)  
 16 (b), and (6) (c) of the statutes, the renumbering and amendment of section 16.705 (1),  
 17 (2), and (6) of the statutes, and the creation of section 16.705 (1) (a) 3. and (b), (2) (a)  
 18 3., (b), and (c), and (6) (a) of the statutes first apply to solicitations for contractual  
 19 services issued on the effective date of this subsection.

20 (2) The creation of section 16.705 (1) (c) of the statutes first applies to contracts  
 21 entered into, renewed, modified, or extended, whichever occurs first, on the effective  
 22 date of this subsection.

23 (3) The treatment of section 16.705 (4) of the statutes first applies to a  
 24 solicitation or a letter of intent to contract issued on the effective date of this  
 25 subsection.

